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10/036,329	10/19/2001	Michael Sprague	WAVE-004XX	3245

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EXAMINER

BAUTISTA, XIOMARA L

ART UNIT	PAPER NUMBER
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2179

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05/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/036,329

Applicant(s)

SPRAGUE ET AL.

Examiner

X. L. Bautista

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see amendment, filed 3/20/07, with respect to the rejection(s) of claim(s) 19-28 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Newswire and Murray et al (US 2004/0104926 A1).

2. Applicant's arguments filed 3/20/07, with respect to claims 1-18 have been fully considered but they are not persuasive.

Applicant argues, with respect to claim 1, "Newswire fails to disclose, teach, or suggest all elements of the rejected claim...Newswire does not teach or disclose an overlay layer having a substantially transparent background...While Newswire does describe the end result to the viewer as viewable atop the TV broadcast, Newswire is silent as to the specific mechanics used to combine content...The rejection of Newswire in view of obviousness should be withdrawn (page 13, last paragraph; page 14, lines 3-14; page 16, line13-14).

In response, using overlay layers having transparent background is obvious and well known in the art and a plurality of references proving the use of it for multiple inventions have been provided for Applicant's consideration.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Newsire* (article entitled, NBC to Broadcast Interactive Fall 1997-98 Programming Enhanced With Wink ITV™, published June 30, 1997).**

Claim 1:

Newsire discloses a system and method for delivering enhanced broadcasting to viewers in realtime. Internet-like features or enhanced program elements are displayed atop the TV broadcast in an interactive graphical overlay that enables viewers to interact with the TV. Interface tools enable a user to package interactive value-added information in a layer displayed on top of the broadcast layer, and the user is not required to tune away from their favorite shows or commercial to access these enhanced features (pages 1-2). Newsire does not teach that the overlay is transparent. However, it would have been obvious to include a transparent layer for enhancing the TV programming because it would provide users with supplemental information relating to the TV broadcast being

watched by the user, which makes it fun and attractive without interfering with the experience of watching the show.

Claims 2-4:

Newsire explains that the method and system include a computer network comprising Internet (pages 1-2). Newsire does not teach the network comprises a local area network or a wide area network. However, it would have been further obvious to include these networks because they would enable offices, schools, and/or colleges to receive interactive programming that might be used for purposes of training and/or learning.

Claim 5:

See claim 1. Newsire teaches the interactive overlay layer is implemented in software running on the computer (pages 1-2).

Claim 6:

See claim 1. Newsire teaches that users are enabled to browse (pages 1-2) and that the dynamic display is merged with the broadcast presentation (page 1).

Claim 7:

See claim 1. Newsire teaches that Wink ITV (user-selectable multimedia tools including drawing tools) allows users to reference an object appearing in the broadcast presentation (page 1, par. 3; page 2, last 2 paragraphs).

Claim 11:

Newswire teaches text and graphic insertion (page 2).

Claim 12:

See claim 1. Newswire teaches delivery of enhancements but it does not specifically teach a delivery icon to trigger delivery. However, it would have been obvious to provide a graphical object for transmitting enhancements to the viewers because it enables the content creator to send enhancements easily and quickly since it would not require programming or entry of text commands, which would make the delivery problematic and slow.

Claim 13:

Newswire teaches a broadcast presentation comprising television broadcast (pages 1-2).

Claim 14:

Newswire teaches realtime and non-realtime broadcast presentation (page 1).

5. **Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Newswire* and *Yamada et al* (US 6,845,486 B2).**

Claims 8-10:

Newswire does not teach the use of speech; thought or text boxes (bubbles). However, Yamada discloses a user support method that facilitates a user to view

and find desired information. Yamada illustrates in figs. 17-21 the use of speech bubbles, thought bubbles, and text boxes to provide the user with guidance or information that may be of interest to the user (col. 15, line 33-col. 16, line 46).

Thus, it would have been obvious to one ordinarily skilled in the art at the time the invention was made to include Yamada's teaching of text boxes in the multimedia tools of Wink ITV because they provide information that is attractive and difficult to miss, and they also offer visual indication of the person that is providing the information.

6. **Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Newswire* and *Wang* (US 6,516,029 B1).**

Claim 15:

See claim 1. *Newswire* teaches broadcast presentation having video and audio but it does not teach an audio editor. However, *Wang* discloses a method for video encoding having video and audio data that may be from an audio node or other sources of audio such as audio overlays, editors, etc. *Wang* teaches that different types of external information can be received from an external input (col. 5, lines 20-27). Therefore, it would have obvious to a person having ordinary skill in the art at the time of invention to include *Wang*'s teaching of an audio editor in Wink ITV tools because they facilitate addition and modification of audio

information.

7. **Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Newswire* and *Mitchell et al* (US 6,175,343 B1).**

Claims 16-18:

Newswire does not teach a broadcast mute tool. However, Mitchell discloses a system and method of operating an overlay for generating effects into a live image. Mitchell teaches that video and audio can be overlaid with informational or historic recreations to enhance the exhibit experience (abstract; col. 9, lines 26-67; col. 10, lines 1-37). Mitchell explains that the overlay may be configured without the audio portion (col. 13, lines 1-13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wink ITV's tools to include options for enabling and/or disabling enhancements (text, graphics, audio, video, etc.) and/or the broadcast signal because it permits important messages (enhancements) to get across by diminishing the activity (eliminating/reducing) of the broadcast (audio or video signals) presentation.

8. **Claims 19-22, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Newswire* and *Murray et al* (US 2004/0104926 A1).**

Claim 19:

See claim 1. Newswire does not specifically teach transmitting broadcast presentation to viewers via a source separate and independent of the computer network. However, Murray discloses a method of retrieving information associated with an object present in a media stream (abstract; p. 1, par. 0011). Murray teaches an enhancing layer and a clear overlay (p. 2, par. 0012, 0024; p. 5, par. 0040 p. 5, par. 0040; figs.); and control tools (p. 4, 0039). Murray teaches transmitting broadcast presentation via a source separate and independent of the computer network (p. 5, par. 0041, lines 12-19). Therefore, it would have obvious to one having ordinary skill in the art at the time the invention was made to modify to include Murray's teaching in Newswire's invention because multiple and different types of information that is associated with the broadcasted presentation can be retrieved from multiple sources and be displayed together with the program without affecting the presentation.

Claims 20-22:

See claim 1. Newswire teaches that Wink ITV the use of the Internet and the World Wide Web (server accessible by the user's and viewer's computers).

Claim 27:

See claim 1. See Newswire, pages 1-2.

Claim 28:

See claims 1 and 19. Murray teaches a tool to dampen the broadcast presentation (p. 5, par. 0042).

9. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Newswire/Murray and Mitchell*.

Claims 23-26:

See claims 16 and 19. Mitchell teaches options for enabling and/or disabling enhancements and/or the broadcast.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawano discloses a method and system for receiving and displaying broadcast data provided in a plurality of layers. Hamery discloses a method and system for displaying picture data that is superimposed in a higher layer over audiovisual information representing televised images. Naguchi discloses a method and system for the presentation of channel, program, and broadcast that applies different levels of transparency to menu components. Lamkin discloses a system and method for presenting multimedia for playback and displaying content in an overlaid fashion, wherein the system uses alpha blending

by combining a translucent foreground with a background color to create an in-between blend. Ullman discloses a system and method for integrating video programming with information resources from the Internet, wherein the video program is displayed on a video window on a personal computer and the Internet information is displayed on another portion of the display screen. Woodson discloses a computer graphics display having the ability to overlay an image or font onto background video. Butler discloses a video broadcast system for broadcasting a video stream and supplemental information using overlays having a background that appears transparent.

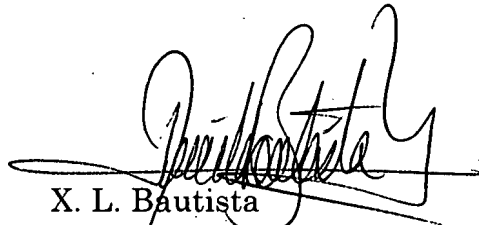
11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to X. L. Bautista whose telephone number is (571) 272-4132. The examiner can normally be reached on Monday-Thursday 8:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



X. L. Bautista
Primary Examiner
Art Unit 2179

xlb
May 23, 2007